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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/654,730	05/29/96	MASTERS	A96021US

35M1/0512
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EXAMINER

KENT, C

ART UNIT PAPER NUMBER

3504

DATE MAILED: 05/12/97 ⁴

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/654,730

Applicant(s)

Rodney H. Masters et al.

Examiner

Christopher T. Kent

Group Art Unit

3504



☒ Responsive to communication(s) filed on May 29, 1996

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-23 is/are pending in the application.

Of the above, claim(s) 14, 15, and 17-20 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8, 12, 13, 16, and 21-23 is/are rejected.

☒ Claim(s) 9-11 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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The following office action is in response to patent examination application serial number 08/654,730, filed on 05/29/96.

Acknowledgement is made of the receipt of the information disclosure statement filed 05/29/96. Claims 1-23 are present in this application.

RESTRICTION REQUIREMENT

This application contains claims directed to the following patentably distinct species of the claimed invention: the species of apparatus for securing a grating sheet as shown in Figs. 1-4B; the species of apparatus as shown in Fig. 5; the species of apparatus as shown in Figs 6-7B; and the species of apparatus as shown in Figs. 8 and 9.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-7, 16, 21-23 are generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

ELECTION BY TELEPHONE

During a telephone conversation with Jan K. Simpson on 05/06/97, a provisional election was made with traverse to prosecute the invention of Figs. 1-4B, claims 1-13, 16 and 21-23. Affirmation of this election must be made by applicant in responding to this office action. Claims 14, 15 and 17-20 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

ABSTRACT OF THE DISCLOSURE

The Abstract of the Disclosure is objected to because it should not contain words such as "invention". Correction is required. See M.P.E.P. § 608.01(b).

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REJECTION - 35 U.S.C. 112, SECOND PARAGRAPH

Claims 1-6, 11, 12, 16 and 21-23 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The scope of claims 1 and 5 is inconsistent. In claim 1, line 8, and in claim 5, line 9, the sidewall is described directly in relation to the unclaimed longitudinal edge of the grating sheet. It is suggested that terminology such as "adapted to extend", or "for extending", be used to replace "extending".

In claim 5, line 5, it appears the use of "connector member" would be better than "connector" for the sake of consistency. And on line 7, "the upper surface" lacks antecedent basis.

In claim 12, line 4, "the bolt member" lacks antecedent basis.

In claim 16, "the grating sheets" lacks antecedent basis.

In claim 21, lines 4 and 5, "the longitudinal edges" lacks antecedent basis. On line 6, "the platform" lacks antecedent basis. On line 9, "the grating sheet" lacks antecedent basis. On line 13, "the combination" lacks antecedent basis. And on lines 14 and 15, "the gratings sheets" lacks antecedent basis.

Claims 3, 4, 6, 13, 22 and 23 recite a limitation which has been given the broadest possible interpretation. The limitation,

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"formed from a corrosion resistant material such as stainless steel (or fiberglass)" does not actually claim stainless steel or fiberglass, but merely "a corrosion resistant material", which, in the absence of some claimed material having a known corrosion resistance for comparison, could be any material exhibiting some corrosion resistant properties. Further, it is noted that claims 4 and 22 attempt to claim a material for the unclaimed "gratings". This is moot since the claims are not directed to the gratings, as understood.

STATUTORY BASIS - 35 U.S.C. 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

REJECTION - 35 U.S.C. 102

Claim 1, as understood, is rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Meyers, U.S. Patent Number 2,075,588. See Fig. 7 which shows a generally L-shaped member (2) with a connection means (19).

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STATUTORY BASIS - 35 U.S.C. 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

REJECTION - 35 U.S.C. 103

Claims 1-6, as understood, are rejected under 35 U.S.C. § 103 as being unpatentable over McClure, U.S. Patent Number 1,567,446. McClure, see Fig. 6, for example, teaches an apparatus for securing a grating sheet including a generally L-shaped member (20), having teeth (formed by the bent over portions securing the grating element 8^a). McClure teaches portion (21) for securing to the structure to another structure (see page 2, lines 12-16 for a discussion). While McClure lacks

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providing an explicit teaching of the nut and bolt connection means of Applicant, a standard nut and bolt arrangement such as Applicant's would have been obvious to a person having ordinary skill in the art at the time the invention was made.

Regarding claim 2, as understood, the bent down portions of McClure, are considered to be "teeth".

Regarding claims 3, 4 and 6, understood, see the discussion of "corrosion resistant" above.

Regarding claim 5, as understood, this claim appears to parallel the combination of limitations as set forth in claims 1 and 2 as rejected above.

Claims 7, 8, 13 and 16, as understood, are rejected under 35 U.S.C. § 103 as being unpatentable over Joseph, U.S. Patent Number 2,705,550.

Regarding claim 7, Joseph teaches an apparatus for securing a grating sheet to a structure, comprising: a top plate (see Fig. 1) having a hole therein; a bottom plate (such as 14) having an opening for receiving an engaging means; and an engaging means. It is apparent from the disclosure of Joseph, that the bottom plate has at least a hole for receipt of the engaging means while lacking explicit disclosure of providing a slot for receipt of the engaging means. The substitution of slots for holes in members in order to provide adjustability is old and

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well known and would have been obvious at the time the invention was made to a person having ordinary skill in the art.

Regarding claim 8, Joseph teaches a threaded bolt member and nut as the engagement means.

Regarding claim 13, see the discussion of the limitation, "corrosion resistant material", above.

Regarding claim 16, the only limitations of this claim are directed to an intended final use for the claimed apparatus, and the apparatus of Joseph is considered to be able to perform in the manner of the claimed intended use.

Claims 21-23, as understood, are rejected under 35 U.S.C. § 103 as being unpatentable over McClure in view of Joseph.

The limitations of claim 21, as understood, parallel a combination of the limitations of claims 1 and 7 which were rejected above. Providing the combination of analogous, and non-exclusive teachings of McClure and Joseph would have been obvious for providing an apparatus which more securely fastens the grating sheets to a structure.

Regarding claims 22 and 23, as understood, see the discussion, above, of the "corrosion resistant material" limitations.

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ALLOWABLE SUBJECT MATTER

Claims 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fails to anticipate or render obvious the claimed apparatus including *inter alia* a channel secured to the bottom surface of the bottom plate.

Claim 12, as understood, would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112 and to include all of the limitations of the base claim and any intervening claims. The prior art of record fails to anticipate or render obvious the claimed apparatus including *inter alia* a cylindrical standoff secured to the lower surface of the top plate.

REFERENCES

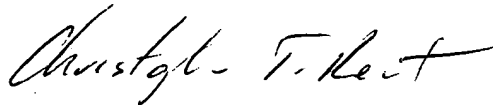
The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. Nagin, Phillips, Thompson, Jr., Ellis, Schiffers, Jr., Singer et al., and Wright et al. teach various features of Applicant's disclosed invention.

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Any inquiry concerning this communication should be directed
to Christopher Kent at (703) 308-2497.

A handwritten signature in cursive script that reads "Christopher T. Kent".

Christopher T. Kent
Primary Examiner
Group 3500
May 8, 1997

**CHRISTOPHER KENT
PRIMARY EXAMINER**